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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,553	09/06/2003	Oscar D. Sandlin		8187

7590 03/20/2007
John V. Moriarty
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Tower
111 Monument Circle Suite 3700
Indianapolis, IN 46204

EXAMINER

YOON, TAE H

ART UNIT	PAPER NUMBER
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1714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/656,553

Applicant(s)

SANDLIN ET AL.

Examiner

Tae H. Yoon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Note new examiner.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over declarants'/applicant's declarations of 5/19/06.

Rejection is maintained for reason of record with following response.

In fact, the painted wall became public use regardless of monetary non-gain by inventor.

The instantly claimed mixing orders would have been a *prima facie* obviousness to one skilled in the art since there are only several ways to mix the claimed components, For example, claim 9 recites a paint, a solvent and a scenting agent, and thus there is only four ways to mix said component; 1. Mix all together, 2. Mix a paint

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and a solvent, and then a scenting agent. 3. Mix a paint and a scenting agent, and then a solvent. 4. Mix a solvent and a scenting agent, and then a paint.

For four components recited in claim 2, there would be ten or so ways to mix said four components. Thus, choosing the instantly claimed mixing orders does not require any undue experimentation and would be obvious to one skilled in the art, especially in view of the fact that claims neither recite amounts nor particular paint, pigment, binder solvent and scenting agent.

Claims 2-4, 6 and 9 are rejected under 35 U.S.C. 102(e) as anticipated by Walker et al (US 6,706,107) with US 2002/0129744 as evidence.

Rejection is maintained for reason of record with following response.

Applicant's 1.131 declaration stating that the evidence in the inventor's memory has no probative value. There must be a written record.

Claims 2-4, 6 and 9 are rejected under 35 U.S.C. 103(a) as obvious over Walker et al (US 6,706,107) with US 2002/0129744 as evidence in view of Maleeny et al (US 2003/0232901), Sokol (US 6,583,195) and Donovan (US 5,217,378).

Rejection is maintained for reason of record with following response.

Applicant's 1.131 declaration stating that the evidence in the inventor's memory has no probative value. There must be a written record.

Claims 2-4, 6 and 9 are rejected under 35 U.S.C. 103(a) as obvious over Maleeny et al (US 2003/0232901) in view of Takarabe et al (US 5,705,560), Walker et al (US 6,706,107), Sokol (US 6,583,195) and Donovan (US 5,217,378).

Rejection is maintained for reason of record with following response.

Applicant's 1.131 declaration stating that the evidence in the inventor's memory has no probative value. There must be a written record.

The instantly claimed mixing orders would have been a *prima facie* obviousness to one skilled in the art since there are only several ways to mix the claimed components. For example, claim 9 recites a paint, a solvent and a scenting agent, and thus there is only four ways to mix said component; 1. Mix all together, 2. Mix a paint and a solvent, and then a scenting agent. 3. Mix a paint and a scenting agent, and then a solvent. 4. Mix a solvent and a scenting agent, and then a paint.

For four components recited in claim 2, there would be ten or so ways to mix said four components. Thus, choosing the instantly claimed mixing orders does not require any undue experimentation and would be obvious to one skilled in the art, especially in view of the fact that claims neither recite amounts nor particular paint, pigment, binder solvent and scenting agent.

Claims 2-4, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinkel et al (US 5,078,792) and Haddad (Fr 2807441) in view of Takarabe et al (US 5,705,560), Sokol (US 6,583,195) and Donovan (US 5,217,378).

The instantly claimed mixing orders would have been a *prima facie* obviousness to one skilled in the art since there are only several ways to mix the claimed components. For example, claim 9 recites a paint, a solvent and a scenting agent, and thus there is only four ways to mix said component; 1. Mix all together, 2. Mix a paint and a solvent, and then a scenting agent. 3. Mix a paint and a scenting agent, and then a solvent. 4. Mix a solvent and a scenting agent, and then a paint.

For four components recited in claim 2, there would be ten or so ways to mix said four components. Thus, choosing the instantly claimed mixing orders does not require any undue experimentation and would be obvious to one skilled in the art, especially in view of the fact that claims neither recite amounts nor particular paint, pigment, binder solvent and scenting agent.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

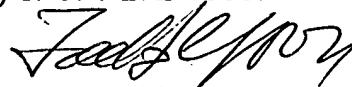
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tae H Yoon
Primary Examiner
Art Unit 1714

THY/March 15, 2007